



## Legislative Research Council

## RULES REVIEW COMMITTEE MINUTES

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**Two Hundred Forty-seventh Meeting**  
**Tuesday**  
**April 20, 2004**

**Room 413**  
**State Capitol Building**  
**Pierre, South Dakota**

The two hundred forty-seventh meeting of the Rules Review Committee was called to order by Chair Senator Royal "Mac" McCracken at 9:00 a.m., April 20, 2004, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators H. Paul Dennert and Royal "Mac" McCracken; and Representatives Richard Engels (appearing via telephone), Jean Hunhoff, and Orville Smidt. Excused was Senator Eric Bogue.

Staff members present included Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

### **Approval of Minutes**

*Representative Hunhoff moved, seconded by Representative Smidt, that the minutes of the March 15, 2004, meeting be approved. Motion prevailed on a roll call vote with 5 ayes, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Excused: Bogue.*

### **Staff Report**

**Mr. Decker** distributed a draft letter and sample Small Business Impact Statement Form to the committee members and those agencies present (**Document #1**). Mr. Decker stated that this form will be required effective July 1, 2004. Representative Hunhoff suggested that staff send the proposed form to all of the agencies asking for their comments, and that any committee discussion of SB 112 be deferred until the May meeting.

### **Rules Reviewed**

**Bureau of Personnel: Law Enforcement Civil Service Commission** - Amend rules regarding the civil service system for the S.D. Highway Patrol and Division of Criminal Investigation affecting the minimum requirements and selection process, employee conduct

and relations, compensation and classification plans, promotion, transfer and demotion, probationary periods, disciplinary actions and the appeals process.

**Mr. Jeff Bloomberg** and **Ms. Sandy Jorgensen** reviewed the proposed rules.

*Senator McCracken moved, seconded by Senator Dennert, to approve the rules proposed by the Bureau of Personnel: Law Enforcement Civil Service Commission. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Excused: Bogue.*

**Department of Environment and Natural Resources: Board of Water and Natural Resources** - Amend rules that will allow the Drinking Water and Clean Water State Revolving Fund programs to make loans for interim financing and to broaden the nonpoint source projects that may be funded through the Clean Water State Revolving Fund program.

**Mr. Mike Perkovich** reviewed the proposed rules. He defined a nonpoint source as any type of pollution that does not come from a pipe.

### **Public Testimony**

**Mr. Rick Vallery**, Pierre, a lobbyist for South Dakota Wheat, Inc., testified in support of the proposed rule changes. He stated that the rules are innovative and creative.

*Representative Hunhoff moved, seconded by Senator McCracken, to approve the rules proposed by the Department of Environment and Natural Resources: Board of Water and Natural Resources. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Excused: Bogue.*

Representative Engels was excused from the meeting at 9:30 a.m.

**Secretary of State: Board of Elections** - Amend rules to clarify wording on voter registration forms, provide parameters for voter registration verification, clarify voter registration and petition deadline notices, require publication of instructions to voters, remove rules relating to punch card ballots, update the municipal nominating and special district formation petitions, and update election forms and procedures to accommodate provisional ballots.

**Secretary of State Chris Nelson** stated that the proposed rules are necessary to comply with the requirements of the Help America Vote Act.

*Senator Dennert moved, seconded by Representative Hunhoff, to approve the rules proposed by the Secretary of State: Board of Elections. Motion prevailed unanimously on a voice vote.*

**Department of Transportation** - Repeal a speed zone in Roberts County on SD Highway 15; and prohibit parking along the east side of State Trunk Highway 115 in Sioux Falls north of 12<sup>th</sup> Street for a distance of 186 feet.

**Department of Transportation** - Amend speed zones in Brown County, Codington County, Deuel County, Lincoln County, and Roberts County.

**Department of Transportation** - Amend rules to authorize mowing certain highway rights-of-way and protect pheasant habitat in certain areas.

**Department of Transportation** - Amend a speed zone in Lake County on SD Highway 34 through the city of Madison; amend rules regarding rear-mounted forklift permits; and clarify responsibilities of business owners with tourist-oriented business signs to notify the Department of Transportation of business closings and to assign responsibility of covering signs of closed businesses to the Department.

**Ms. Karla Engle** reviewed the proposed rules.

### **Public Testimony**

**Mr. Rick Vallery**, Pierre, lobbyist for South Dakota Wheat, Inc., testified in support of the mowing rules. He stated that it has been a work in progress and that the proposed rules do help.

*Senator Dennert moved, seconded by Representative Smidt, to approve the rules proposed by the Department of Transportation. Motion prevailed unanimously on a voice vote.*

**Department of Revenue and Regulation: Commission on Gaming** - Adopt a rule to allow a variation of poker known as Silverado Stud poker.

**Mr. Larry Eliason** and **Mr. Mike Shaw** explained the proposed rule.

*Senator McCracken moved, seconded by Senator Dennert, to approve the rule proposed by the Department of Revenue and Regulation: Commission on Gaming. Motion prevailed unanimously on a roll call vote, with 4 ayes, 2 excused. Members voting aye: Dennert, Hunhoff, McCracken, and Smidt. Excused: Bogue and Engels.*

Representative Engels rejoined the meeting via telephone at 10:20 a.m.

**Department of Education: Board of Education** - Adopt and amend rules that move the implementation date of a curriculum rule back one year (Dakota STEP test); allow any coursework, renewal or college transcribed, that a teacher completes by January 1, 2004, toward his or her next renewal to be honored; and adopt rules for an alternative route to certification specific to the Teach for America program.

**Department of Education** - Adopt rules to implement the Hagen-Harvey memorial scholarship program.

**Department of Education: Board of Education** - Amend rules to ensure the requirements of the new bus driver manual are met; change the number of years of experience and types of experience required for administrators to obtain full certification; adopt rules that define certification for school social workers; and adopt rules for the implementation of the statewide accountability system.

**Ms. Melody Schopp** reviewed the proposed rules by the Board of Education, except the statewide accountability system. She distributed background information on ARSD 24:03:06:06:05 regarding the Dakota STEP test (**Document #2**).

**Mr. Ryan Wise**, Pierre, Executive Director for Teach for America in South Dakota, explained their program. Mr. Wise stated that twenty teachers in the Teach for America program are being hired by three South Dakota schools for the 2004-2005 school year.

**Mr. Stacy Krusemark** reviewed the proposed rules regarding the Harvey-Hagen scholarship program. He stated that seven scholarships were awarded this past year. In response to Representative Hunhoff's question on why there were no minimum standards in the selection preferences, Mr. Krusemark stated that the board decided to start with no minimum ACT score; however, there was a possibility of a minimum score being included in the future.

**Ms. Deborah Barnett** reviewed the proposed rules regarding the implementation of the state accountability system. She stated that the accountability system is necessary for the State to be compliant with the requirements of the No Child Left Behind Act.

*Representative Smidt moved, seconded by Representative Hunhoff, to approve the rules proposed by the Department of Education and the Department of Education: Board of Education. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Excused: Bogue.*

**Department of Labor: Unemployment Insurance** - Adopt rules regarding seasonal designation for fireworks stand operators, eliminate the denial of benefits to unemployed workers who serve on juries, and allow filing appeals by facsimile.

**Mr. Don Kattke** reviewed the proposed rules.

*Representative Smidt moved, seconded by Senator Dennert, to approve the rules proposed by the Department of Labor: Unemployment Insurance. Motion prevailed unanimously on a roll call vote, with 5 ayes, 1 excused. Members voting aye: Dennert, Engels, Hunhoff, McCracken, and Smidt. Excused: Bogue.*

**Department of Social Services: Office of Medical Services** - Adopt a rule that will move a mandated provision of the state Medicaid program from the South Dakota Codified Laws into the Administrative Rules of South Dakota. The provision to be moved relates to protecting

the resources of an individual when that individual's spouse enters a long-term care facility. This rule is adopted under the procedure provided in SDCL 1-36-20. This procedure permits adoption of a federally mandated rule without following the procedures set forth in SDCL 1-26-4 to 1-26-6, inclusive.

**Ms. Jill Wellhouse** reviewed the federally mandated rule. She distributed a handout "SDCL 28-6-19 - Limit on spousal share and ARSD 67:46:07:03 - Determination of spousal share" (**Document #3**).

Mr. Decker explained that SB 9 repeals SDCL 28-6-19 effective July 1, 2004, and the administrative rule will take effect on July 1, 2004.

Representative Engels was excused from the meeting at 11:50 a.m.

**Department of Game, Fish and Parks** - Amend rules regarding the daily and possession limits for walleye, sauger, or walleye-sauger hybrids in the South Dakota-Minnesota boundary waters; remove the 14" minimum length restriction for walleye, sauger, and walley-sauger hybrids in several bodies of water including Big Stone Lake in Grant and Roberts counties and Hartford Beach Creek within Hartford Beach State Park; add the South Dakota-Minnesota boundary waters to the bodies of water where no more than one walleye, sauger, or walleye-sauger hybrid may be taken daily which is 20" or greater in length; and amend the fishing limits for bluegill, sunfish, or combination thereof, and crappie in the South Dakota-Minnesota boundary waters.

**Department of Game, Fish and Parks** - Amend rules regarding the following hunting seasons: Custer State Park Deer, Custer State Park Bighorn Sheep, Special Custer State Park Antlerless Elk, Archery Antelope, Archery Deer, Archery Elk, Black Hills Elk, Prairie Elk, General Muzzleloading Deer, Black Hills Bighorn Sheep, Pheasant, Grouse, Sage Grouse, Gray Partridge, Quail, and Mourning Dove; amend dog training restrictions on Fort Pierre National Grasslands; increase the daily admission fee for the Fort Sisseton Festival; add camping permit fees at Amsden Dam, increase the cost of the daily camping fee at Fort Sisseton during the Festival, and amend and establish daily equestrian camping permit fees at Bear Butte, Lewis and Clark, Newton Hills, Oakwood Lakes, Pease Creek, Pelican Lake, and Union Grove.

**Mr. Doug Hansen** gave an overview of the proposed rules.

*Representative Hunhoff moved, seconded by Senator McCracken, to approve the rules proposed by the Department of Game, Fish and Parks. Motion prevailed unanimously on a voice vote.*

### **Committee Discussion**

Senator McCracken commented that the Department of Game, Fish and Parks has done an excellent job in the presentation of their rules. He likes the addendum and fiscal note

explanation that the department provides to the committee. He also stated that he greatly appreciates the background information that was provided by the Department of Education.

The next Rules Review Committee meeting will be held on Tuesday, May 18, 2004. Chair McCracken stated that he will be unable to attend.

*Representative Smidt moved, seconded by Senator Dennert, that the meeting adjourn. Motion prevailed unanimously on a voice vote.*

The meeting adjourned at 12:07 p.m.



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